

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

IN THE MATTER of the Application of)	UTILITY DIVISION
MONTANA POWER COMPANY for)	
Approval of its Electric Utility Restructuring))	DOCKET NO. D97.7.90
Transition Plan Filed Pursuant to Senate)	
Bill 390.)	

IN THE MATTER of)	UTILITY DIVISION
the Joint Application for Approval of the)	
Sale of Montana Power Company)	DOCKET NO. D2001.1.5
To NorthWestern Corporation)	

**PETITION FOR LATE INTERVENTION OF MIKE McGRATH,
ATTORNEY GENERAL**

Mike McGrath, Attorney General, petitions for late intervention in the above captioned matters. The grounds for the Attorney General's petition are as follows:

1. The Attorney General is an executive officer created by the Montana Constitution. Mont. Const. VI, Sec. 1. The Constitution grants the Attorney General all powers and duties provided by law. Id. Sec. 4(4). The Attorney General's statutory duties include the obligation to prosecute or defend all causes in the Supreme Court in which the State is a party or in which the State has an interest. Mont. Code Ann. § 2-15-501(1).

2. In addition to the powers and duties imposed by statute, the Attorney General, as the chief law officer for the State of Montana, is charged with all common law powers and duties pertaining to his office. Thus, in the absence of an express statutory prohibition, the Attorney General may exercise all such power and authority as the public interest requires. See State ex rel. Olsen v. Pub. Serv. Comm'n, 129 Mont. 106, 283 P.2d 594 (1955).
3. The Attorney General has an on-going obligation to protect the public interest in matters of public importance. The on-going proceedings regarding the restructuring of the electric industry in Montana, in general, and Montana Power Company's ("MPC") proposed sale of its transmission and distribution assets to NorthWestern Corporation, in particular, constitute matters of public importance.
4. The proposed sale raises concerns for long-term state energy policy and may have substantial implications for restructuring the electric industry in Montana. The Commission's actions in this regard could affect the State of Montana as a rate-payer and implicate the Attorney General's obligation to protect the public interest.
5. The proposed sale also includes the transfer of the Milltown Dam and Reservoir, located on the Clark Fork River, a navigable waterway in the

State of Montana. The proposed transfer of liability for hazards associated with the Milltown Dam and Reservoir raises matters of great public importance.

6. The Attorney General seeks general intervention in the above-captioned matters, and the Attorney General does not foresee that its intervention will delay or prejudice the proceedings or alter the procedural schedules.
7. Although the Attorney General missed the deadline for general intervention in these dockets, the lack of prejudice or delay to the proceedings and the Commission's consideration of matters of great public importance renders late intervention by the Attorney General appropriate.
8. If late intervention is granted, the Attorney General requests that all notices and other documents relating to these cases be served on the following:

Mike McGrath
Attorney General
Justice Building
215 N. Sanders
P.O. Box 201401
Helena, MT 59620-1401

For the reasons stated herein, the Attorney General respectfully requests that the Public Service Commission grant its Petition for Late Intervention.

RESPECTFULLY SUBMITTED this 11th day of December, 2001.

MIKE McGRATH
Montana Attorney General
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By: _____
BRIAN M. MORRIS
Solicitor

CERTIFICATE OF SERVICE

I certify that a copy of the forgoing **Petition For Late Intervention of Mike McGrath, Attorney General** has been served upon the following persons by first class mail:

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